IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 20085 of 2004

Between:

B.Hari Prasad, s/o B.S.Naidu,
R/at Flat No.4(II Floor) Sri Sai Residency, C.B.M.Compound,
Visakhapatnam.

... PETITIONER

AND

The Joint Sub-Registrar and Collector under Indian Stamp Act,
District Registrar's Office, Visakhapatnam.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of writ of certiorari calling for the records relating to Document No.422/2004 of Joint Sub-Registrar's Office, Visakhapatnam to examine the propriety and genuineness and quash the order dated
24-09-2004 (Styled as Notice) issued by the respondent herein declaring the action of the respondent is violative of Section 41(A) of Indian Stamp (A.P.Amendment) Act, 1986 and consequently direct the respondent to drop the proceedings on considering the Written Explanation submitted by the petitioner on 20-10-2004.

Counsel for the Petitioner: MR.S.V.R.SUBRAHMANYAM

Counsel for the Respondents: G.P. for Revenue

The Court, at the admission stage, made the following:

ORDER:

By the impugned notice, petitioner was informed that an agreement was registered on 03-02-2004, vide Document No.422/04, but whereas a Cancellation Deed was submitted in P.No.646/04 stating that the consideration paid in the form of cheques for Rs.7,26,000/- towards consideration for the said document was dishonored for want of funds. Consideration has not properly been shown as Rs.7,26,000/-, but shown as Rs.6,48,500/-. In view of the same, why the deficit stamp duty of three times more shall not be recovered from the petitioner, to which petitioner submitted his explanation on 20-10-2004. Since no final orders have been passed on the said representation, the present writ petition has been filed contending that sale consideration was paid in cash as per the registered agreement of sale vide Document No.422/04, whereas cheques were issued with regard to some other transaction. In view of the same, notice issued is liable to be set aside.

2. Notice issued by the respondents will be treated only as show cause notice to which petitioner already submitted explanation. Only after providing opportunity to the petitioner to explain that the document was executed for the sale consideration by payment of cash only and the cheques shown pertain to some other transaction, respondents shall pass a speaking order and without passing any speaking order, respondents are directed not to take any coercive steps to recover the said amount.

The writ petition is accordingly disposed of. No costs.

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A. **GOPAL REDDY, J**

November 2, 2004

N.B. *Copy in two days*

(B/o)

MRR

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To:

1. The Joint Sub-Registrar and Collector under Indian Stamp Act,
   District Registrar's Office, Visakhapatnam.
2. Two C.D. Copies.